

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROSE JONES,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:12-cv-01283

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court on Defendants' Motions to Dismiss (Dkt. Nos. 4 and 15), in this case which was referred to the undersigned by the Honorable Janet T. Neff for management and issuance of report and recommendation on dispositive motions under 28 U.S.C. § 636(b)(1)(B). The motions were heard on August 6, 2013. Plaintiff originally filed her complaint pro se but counsel has since appeared to represent her. An order will issue requiring plaintiff to file an amended complaint by August 23, 2013. For reasons stated on the record at the August 6, 2013 hearing, the undersigned recommends the following:

1. Defendants' motions on exhaustion grounds should be denied without prejudice.
2. Defendants' motions regarding events occurring prior to October 6, 2010, at which time plaintiff executed a settlement agreement in an earlier case, Jones v. MDOC, Case No. 1:09-cv-508, should be granted.

3. Defendants' motions regarding failure to state a claim should be denied without prejudice to reassertion of the argument after plaintiff has filed an amended complaint.

Respectfully submitted,

Date: August 9, 2013

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).